



April 16, 2020

Via federalreserve.gov

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551

Re: Main Street Lending Program

The National Automobile Dealers Association (NADA) represents more than 16,000 franchised automobile and truck dealers who sell and finance new and used motor vehicles and engage in service, repair and parts sales. Together they employ over 1,100,000 people nationwide, most of which are small businesses as defined by the Small Business Administration. We write to thank the Board of Governors of the Federal Reserve System (Federal Reserve) for the multiple actions it has taken to help small businesses survive the COVID-19 crisis and to request that the Federal Reserve exercise its discretion to improve a problematic limitation contained in the Main Street Lending Program.

On April 9, 2020, the Federal Reserve announced that the Main Street Lending Program would include a New Loan Facility (MSNLF) and an Expanded Loan Facility (MSELF) to enhance support for small and mid-sized businesses.¹ Under authorization from the Coronavirus Aid, Relief and Economic Security (CARES) Act, these loan programs are designed to provide much needed liquidity to small and medium-sized businesses. NADA appreciates and supports the government's efforts to increase the availability of capital and to assist automobile and truck dealers in weathering the current crisis; however, one discrete provision in the MSNLF and MSELF term sheets could reduce – not enhance – liquidity to these businesses and thus undermine their intended value to small and mid-sized businesses.

The Federal Reserve's term sheets for these facilities impose several conditions on the business activity of MSNLF and MSELF loan recipients. One such condition states:

“The Eligible Borrower must attest that it will follow compensation, stock repurchase, and capital distribution restrictions that apply to direct loan programs under section 4003(c)(3)(A)(ii) of the CARES Act.”

¹ <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200409a.htm>

Among the restrictions is that borrowers must agree “until the date 12 months after the date on which the direct loan is no longer outstanding, not to pay dividends or make other capital distributions with respect to the common stock of the eligible business.”²

An unfortunate consequence of this restriction is that it precludes borrowers from making distributions for the purpose of covering tax liabilities incurred in the standard operation of their businesses.

Most small and medium-sized dealers are organized as pass-through business entities in which dealership income and the related income tax obligations flow through to the owners’ individual tax returns. For these businesses to avail themselves of the benefits that these loan facilities are designed to create, it is essential that they be permitted to make distributions to satisfy shareholder income tax obligations incurred from the pass-through taxable income. **Accordingly, we urge the Federal Reserve to remove unnecessary restrictions on pass-through entities that are currently contained in the MSNLF and MSELF term sheets, including the restriction on the payment of dividends and other capital distributions to satisfy tax liabilities.**

Thank you for the opportunity to comment on this matter. Please contact our office at (703) 821-7040 if we can provide you with any additional information.

Respectfully submitted,

/s/

Paul D. Metrey
Vice President, Regulatory Affairs
Chief Regulatory Counsel,
Financial Services, Privacy, and Tax

² CARES Act, § 4003(c)(3)(A)(ii)(II).